

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

RANDELL L. BROWN, Register No. 179887,)	
)	
Plaintiff,)	
)	
v.)	No. 05-4414-CV-C-NKL
)	
KELLY DILLS, et al.,)	
)	
Defendants.)	

REPORT, RECOMMENDATION AND ORDER

Plaintiff Randall L. Brown, while confined in a Missouri penal institution, brought this case under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and its corresponding jurisdictional statute, 28 U.S.C. § 1343. This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

Defendants have filed motions for sanctions against plaintiff for his failure to appear for two scheduled depositions of which plaintiff was given notice. A telephone conference was held with the parties on January 12, 2007.

Upon consideration of plaintiff's disability, the nature of his claims, and plaintiff providing some indication to defendants that he could not obtain transportation to the scheduled depositions in Jefferson City, defendants' motions for sanctions should be denied. Nonetheless, plaintiff is reminded that he initiated this federal lawsuit and must comply with the Federal Rules of Civil Procedure, or his claims may be dismissed. Defendants may reschedule plaintiff's deposition.

On December 15, 2006, plaintiff filed a motion for appointment of counsel. On April 25, 2006, this court denied plaintiff's prior request. A review of the record does not reveal a significant change in circumstances since that time. Accordingly, for the reasons previously set forth, plaintiff's motion will be denied.

Upon consideration of defendants' motions seeking to amend the scheduling order, it is

ORDERED that the time for completion of discovery is extended to April 16, 2007, and dispositive motions are due May 4, 2007. [92] It is further

ORDERED that defendants' motion for hearing on extension of the scheduling order is moot. [83] It is further

ORDERED that plaintiff's renewed motion for appointment of counsel is denied, without prejudice. [95] It is further

RECOMMENDED that defendants' motions for sanctions be denied [90, 91].

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 13th day of February, 2007, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge